

SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT: Partnership Agreement with the Florida Trail Association

DEPARTMENT: Leisure Services

DIVISION: Parks and Recreation

AUTHORIZED BY: Joe Abel

CONTACT: Julia Thompson

EXT: 2170

MOTION/RECOMMENDATION:

Approve and authorize the Chairman to execute the Partnership Agreement with the Florida Trail Association.

County-wide

Julia Thompson

BACKGROUND:

The Florida Trail Association is a non-profit hiking organization whose mission and outreach responsibilities is to expand opportunities for people to get outside and enjoy hiking, camping and a variety of outdoor activities. Seminole County is supportive of expanding it's partnership with the Florida Trail Association by desiring to offer Outdoor Adventure Programs to youth, adults and families who would like to improve their wilderness skills in areas such as backpacking, camping, plant and wildlife identification. The partnership agreement provides for 80% of the gross revenue from program registration to go to the Florida Trail Association with the Leisure Services Department receiving 20% of the gross revenue.

STAFF RECOMMENDATION:

Staff recommends that the Board approve and authorize the Chairman to execute the agreement with the Florida Trail Association.

ATTACHMENTS:

1. Agreement

Additionally Reviewed By:

- Budget Review (Ben Crawford, Lisa Spriggs)
- County Attorney Review (Ann Colby)
- Revenue Review (Cecilia Monti, Lisa Spriggs)

**FACILITIES USE AGREEMENT
FLORIDA TRAIL ASSOCIATION**

THIS FACILITIES USE AGREEMENT is made and entered into this _____ day of _____, 20____, between **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 E. First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY", and **FLORIDA TRAIL ASSOCIATION**, whose address is 5415 SW 13th Street, Gainesville, Florida 32608, hereinafter referred to as "USER".

W I T N E S S E T H:

WHEREAS, COUNTY is the owner and operator of certain public facilities located in Seminole County; and

WHEREAS, COUNTY desires to expand sports programs offered to the public at those facilities; and

WHEREAS, USER operates Outdoor Adventure Programs for adults, youth, and families in order to learn outdoor skills, encourage healthy lifestyles and an appreciation for nature,

NOW, THEREFORE, in further consideration of the mutual covenants and promises stated herein between COUNTY and USER, the parties agree as follows:

SECTION 1. RIGHT OF USE. COUNTY does hereby grant USER the non-exclusive right to use Seminole County Leisure Services Department facilities for USER's Outdoor Adventure Programs for youths, adults, and families. This right of use shall be year-round weekday and/or weekend usage of the facilities in coordination with the Leisure Services Department, and shall be contingent upon USER's compliance with all the terms and conditions of this Agreement.

SECTION 2. SERVICES TO BE PROVIDED BY COUNTY. COUNTY agrees to provide the following services on behalf of USER:

(a) COUNTY will provide scheduled use of the Leisure Service Department general meeting spaces for program purposes.

(b) COUNTY will maintain those general meeting spaces in good working condition and any maintenance/repairs will be corrected in a timely manner by COUNTY.

(c) COUNTY will provide promotion/advertising for USER's Program through the COUNTY web site and COUNTY Leisure Service Guide.

(d) COUNTY will be responsible for the registration and collection of fees from each participant in the classes/programs, unless otherwise agreed upon or specified.

(e) COUNTY will provide USER with an updated roster prior to each class.

(f) COUNTY will administer criminal history background checks for USER's volunteers. Background checks for all volunteers must be completed prior to the first day of working with participants. COUNTY reserves the right, after review of the criminal history background checks, to prohibit individuals with unsatisfactory checks from participating in youth programs on COUNTY property.

(g) COUNTY will secure release forms and provide the roster with copies of registration forms to USER.

SECTION 3. SERVICES TO BE PROVIDED BY USER. USER agrees to provide the following services:

(a) USER, or upon the consent and approval of the Leisure Services Director, its authorized representative shall be on the site

at all times reasonably necessary for the performance of the class facilitation specified by this Agreement.

(b) USER will provide additional equipment as necessary to ensure safe and proper execution of the Program.

(c) USER will work in partnership with COUNTY to jointly promote and market the Outdoor Adventure Programs and will prepare all promotional and registration materials necessary for advertising and marketing the Program.

(d) USER shall provide a quality Program which must be approved in advance by the Leisure Services Director or designee, with such determination to be final. If USER's performance is not acceptable to COUNTY, the Program may be cancelled at any time by COUNTY.

(e) USER will work with COUNTY to make all necessary Program arrangements such as preparing and assembling needed materials and equipment, instructor training, communication with participants, and schedules. USER will be responsible for procuring all necessary supplies for the execution of the Outdoor Adventures Program.

(f) USER will keep an accurate record of participant session dates and attendance.

(g) USER will provide the Leisure Services Department with preliminary schedules at least thirty (30) days prior to start of the Program. Any changes must be submitted with fourteen (14) days advance notice. All scheduling must be approved by COUNTY prior to starting of the program.

(h) USER is responsible for coordinating with the Leisure Services Department to ensure that the Program does not interfere with

events of COUNTY or the public. Program must yield to events/needs of COUNTY.

(i) USER will be responsible for coordinating the recruitment of all volunteers needed. USER will be responsible for notifying COUNTY regarding any new volunteers to ensure background checks are processed.

(j) Any sponsorship obtained by USER must be approved by COUNTY.

(k) USER agrees to make all required tax payments as may be necessitated under its programs, including any tax obligation arising from the hiring of additional USER employees for its programs and as may be necessary to comply with the terms of this Agreement.

(l) USER agrees to conduct itself in such a manner as to advance good relations for COUNTY and its citizens.

(m) USER further agrees to control the conduct, demeanor and appearance of employees, agents, representatives, customers, volunteers, and patrons in such a manner as to advance good relations for COUNTY and its citizens.

(n) Upon objection by the Leisure Services Director concerning the conduct, demeanor, or appearance of any person, USER shall immediately take all necessary steps to correct the course of such objection or, at COUNTY's request, remove said person from the Program offered at COUNTY.

(o) USER shall not conduct any business or activity on COUNTY property not specifically authorized by this Agreement unless approved in advance by COUNTY.

SECTION 4. REVENUE SHARING. COUNTY and USER shall share all USER Program registration revenues generated from the Outdoor Adventures Program, with COUNTY to receive twenty percent (20%) of the gross revenue and USER to receive eighty percent (80%) of the gross revenue. COUNTY shall be responsible for the collection and accounting for such revenue and shall submit to USER its eighty percent (80%) at the conclusion of each Program.

SECTION 5. INSURANCE.

(a) General. USER shall, at its own cost, procure the insurance required under this Section.

(1) Prior to using any County-owned facilities, USER shall furnish COUNTY with a Certificate of Insurance signed by an authorized representative of the insurer evidencing the insurance required by this Section (Commercial General Liability). COUNTY, its officials, officers, and employees shall be named additional insured under the Commercial General Liability policy. The Certificate of Insurance shall be provided to COUNTY a minimum of ten (10) days prior to the commencement of the Program with not less than thirty (30) days written notice prior to the cancellation or restriction of coverage. Until such time as the insurance is no longer required to be maintained by USER, USER shall provide COUNTY with a renewal or replacement of the insurance for which a previous certificate has been provided.

(2) The Certificate shall contain a statement that it is being provided in accordance with this Agreement and that the insurance is in full Compliance with the requirements of this Agreement. In lieu of the statement on the Certificate, USER shall,

at the option of COUNTY, submit a sworn, notarized statement from an authorized representative of the insurer that the Certificate is being provided in accordance with this Agreement and that the insurance is in full compliance with the requirements of this Agreement.

(3) Neither approval by COUNTY nor failure to disapprove the insurance furnished by USER shall relieve USER of its full responsibility for performance of any obligation including its indemnification of COUNTY under this Agreement.

(b) Insurance Company Requirements. Insurance companies providing the insurance under this Agreement must meet the following requirements:

(1) Companies issuing policies other than Workers' Compensation must be authorized to conduct business in the State of Florida and prove same by maintaining Certificates of Authority issued to the companies by the Department of Insurance of the State of Florida.

(2) In addition, such companies other than those authorized by Section 624.4621, Florida Statutes, shall have and maintain a Best's Rating of "A-" or better and a Financial Size Category of "VII" or better according to A.M. Best Company.

(3) If, during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall (i) lose its Certificate of Authority, (ii) no longer comply with Section 624.4621, Florida Statutes, or (iii) fail to maintain the requisite Best's Rating and Financial Size Category, USER shall, as soon as it has knowledge of any circumstance, immediately notify COUNTY and immediately replace the insurance

coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as USER has replaced the unacceptable insurer with an insurer acceptable to COUNTY, USER shall be deemed to be in default of this Agreement.

(c) Specifications. Without limiting any of the other obligations or liability, USER shall, at its sole expense, procure, maintain, and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this Section. Except as otherwise specified in this Agreement, the insurance shall become effective prior to the commencement of this Agreement by USER and shall be maintained in full force until this Agreement's completion date. The amounts and types of insurance shall conform to the following minimum requirements:

The minimum limits to be maintained by USER (inclusive of any amounts provided by an Umbrella or Excess policy) shall be as follows:

	<u>LIMITS</u>
General Aggregate	\$1,000,000.00
Personal & Advertising	
Injury Limit	\$1,000,000.00
Each Occurrence Limit	\$1,000,000.00

SECTION 6. TERM. This Agreement shall take effect upon its execution by the parties and shall remain in effect for one (1) year. At the option of the parties, this Agreement may be renewed for one (1) additional one (1) year term.

SECTION 7. TERMINATION. COUNTY may, by written notice to USER, terminate this Agreement, in whole or in part, at any time, either for COUNTY's convenience or because of the failure of USER to fulfill USER's Agreement obligations. Upon receipt of such notice, USER shall

immediately discontinue all services and programs affected unless the notice directs otherwise. USER may discontinue services at any time, but must give a thirty (30) day written notice to COUNTY, and fulfill all obligations to any customers who have paid for the program and hold COUNTY harmless from any claims brought by said customer.

SECTION 8. NON-DISCRIMINATION. USER agrees that it will not discriminate against any participant for programs under this Agreement because of race, color, religion, sex, age, national origin, or disability and will take steps to ensure that participants are treated during Program, without regard to race, color, religion, sex, age, national origin or disability.

SECTION 9. ASSIGNMENT. This Agreement, or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by the parties hereto, without prior written consent of the opposite party and only by a document of equal dignity herewith.

SECTION 10. SUBCONTRACTORS. In the event USER, during the course of this Agreement, requires the services of any subcontractors or other professional associates in connection with this Agreement, USER must secure the prior written approval of COUNTY. If subcontractors or other professional associates are required in connection with this Agreement, USER shall remain fully responsible for the services of subcontractors or other professional associates.

SECTION 11. INDEMNIFICATION OF COUNTY. USER agrees to hold harmless, replace, and indemnify COUNTY, its commissioners, officers, employees, and agents against any and all claim, losses, damages or lawsuits for damages, arising from the negligent, reckless, or intentionally wrongful provision of services hereunder by USER, whether

caused by USER, its employees, volunteers, subcontractors or otherwise. This hold harmless, release, and indemnification shall include any claim based on negligence, action, or inaction of the parties.

SECTION 12. AUDIT OF RECORDS. USER agrees to maintain all books, documents, papers, accounting records and other evidences pertaining to programs conducted under this Agreement in such a manner as will readily conform to the terms of this Agreement and to make such materials available at USER's office at all reasonable times during the Agreement period and for two (2) years from the date of final payment under the contract for audit or inspection.

SECTION 13. MODIFICATIONS, AMENDMENTS OR, ALTERATIONS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

SECTION 14. INDEPENDENT CONTRACTOR. It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of copartners between the parties, or as constituting USER including its officers, employees, and agents, the agent, representative, or employee of COUNTY for any purpose, or in any manner, whatsoever. USER is to be and shall remain an independent contractor with respect to all services performed under this Agreement.

SECTION 15. EMPLOYEE STATUS. Persons employed by USER in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges

granted to COUNTY's officers and employees either by operation of law or by COUNTY.

SECTION 16. PUBLIC RECORDS LAW. USER acknowledges COUNTY's obligations under Article 1, Section 24, Florida Constitution and Chapter 119, Florida Statutes, to release public records to members of the public upon request. USER acknowledges that COUNTY is required to comply with Article 1, Section 24, Florida Constitution and Chapter 119, Florida Statutes, in the handling of the materials created under this Agreement and that said statute controls over the terms of this Agreement.

(Signature Page Follows)

A very faint, handwritten signature is visible in the center of the page, appearing to be a stylized name.

IN WITNESS WHEREOF, the parties hereto have made and executed this document for the purposes herein expressed.

FLORIDA TRAIL ASSOCIATION

Witness

By: _____

Print Name

Print Name

Witness

Title: _____

Print Name

Date: _____

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
BOB DALLARI, Chairman

Date: _____

For the use and reliance
of Seminole County only.

As authorized for execution
by the Board of County Commissioners
at their _____, 20____
regular meeting.

Approved as to form and
legal sufficiency.

County Attorney

AEC/sjs
10/13/09
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